



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

MARSHALL LEON WATKINS,
Plaintiff,

vs.

LT. MS. SEABROOK,
Defendant.

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Civil Action No.: 0:23-2920-MGL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING CASE WITHOUT PREJUDICE
AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

Plaintiff Marshall Leon Watkins (Watkins) filed a complaint against Defendant Lt. Ms. Seabrook, alleging defamation and violations of his First Amendment rights under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

This matter is before the Court for review of the Report and Recommendation of the Magistrate Judge (Report) recommending the Court dismiss this case without prejudice and without issuance and service of process for lack of subject matter jurisdiction. She reasoned Watkins clearly failed to state a federal claim, and diversity is nonexistent in this case. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 4, 2023. The Clerk of Court docketed Watkins's objections on October 16, 2023. The Court has reviewed the objections, but holds them to be without merit. It will therefore enter judgment accordingly.

Watkins's fails to object to the Magistrate Judge's determination this Court lacks subject matter jurisdiction. Instead, his objections focus on the merits of his claim. Because subject matter jurisdiction is a threshold issue, the Court need not—and, indeed, cannot—address these objections. *See* Fed. R. Civ. P. 12(h)(3) (“If the [C]ourt determines at any time that it lacks subject-matter jurisdiction, the [C]ourt must dismiss the action.”).

The Court will therefore overrule Watkins's objections. Watkins should bring his claims in state court, most likely in Dorchester County, where Lieber Correctional Institution is located.

After a thorough review of the Report and the record in this case under the standard set forth above, the Court overrules the objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court this case is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

IT IS SO ORDERED.

Signed this 19th day of October 2023, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.